

SERVICE DATE - OCTOBER 19, 2001

This decision will be included in the bound volumes of the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
— CONTROL AND OPERATING LEASES/AGREEMENTS —
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 202

Decided: October 17, 2001

In Environmental Condition No. 8(A) of Appendix Q of Decision No. 89, served July 23, 1998,¹ we required applicants to negotiate with the State of Ohio (by and through the Ohio Attorney General, the Ohio Rail Development Commission (ORDC), and the Public Utilities Commission of Ohio (PUCO)) regarding certain highway/rail at-grade crossing improvements.² On May 27, 1999, CSX submitted a Railroad Corridor Agreement (Agreement), dated May 17, 1999, entered into by CSX, PUCO, and ORDC regarding highway/rail at-grade crossing improvements in Ohio. In Decision No. 129, served June 16, 1999, we added the Agreement to the list of Negotiated Agreements entered into by CSX in Environmental Condition No. 51 of Appendix Q of Decision No. 89, and amended Environmental Condition No. 8(A) by deleting the 20 CSX highway/rail at-grade crossings located in the State of Ohio that were listed under “CSX” (slip op. at 395-96).

As summarized in Decision No. 129, the Agreement provided that one crossing listed in Environmental Condition No. 8(A) that is presently equipped with flashing lights and gates (the West Boundary Street crossing (155821J) in Perrysburg) would be evaluated to determine whether further upgrading is warranted. Environmental Condition No. 8(A) specified upgrading

¹ In Decision No. 89, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc. and Consolidated Rail Corporation (collectively, Conrail) and the division of Conrail’s assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as applicants.

² The original deadline to complete negotiations was within 120 days of the effective date of our decision or by December 20, 1998. At the request of CSX and the State of Ohio, this date has been extended several times.

to “4-Quadrant Gates, or Alternative Mitigation such as Median Barriers.” As explained in Section 1(B) of the Agreement, however, these devices are not currently used in Ohio. Therefore, further evaluation was anticipated, and the Agreement provided that CSX would assist PUCO/ORDC and the local community in the evaluation.

By letter filed September 18, 2001, CSX advises that, pursuant to the Agreement, it has assisted ORDC and the City of Perrysburg in their evaluation of the West Boundary Street crossing, and that the parties have concluded that the warning system at the West Boundary Street crossing should not be changed. CSX further states that, in lieu of upgrading the West Boundary Street crossing, ORDC and the City of Perrysburg would like to upgrade the warning systems at two other crossings in Perrysburg, one at Mulberry Street (155822R) and one at Maple Street (155832N), by installing flashing lights and gates.³ CSX indicates that it does not object to this proposal and that ORDC, the City of Perrysburg, and CSX agree that upgrading the Mulberry Street and Maple Street crossings to flashing lights and gates in lieu of upgrading the West Boundary Street crossing will satisfy CSX’s obligations under the Agreement, and thus under Environmental Condition No. 51.

In view of the parties’ development of mutually satisfactory alternate safety improvements in the City of Perrysburg, we agree that upgrading the Mulberry Street and Maple Street crossings to flashing lights and gates in lieu of upgrading the West Boundary Street crossing will satisfy CSX’s obligations under the Agreement and under Environmental Condition No. 51.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. In accordance with the parties’ development of mutually satisfactory alternate safety improvements in the City of Perrysburg, OH, CSX’s upgrade of the Mulberry Street (155822R) and Maple Street (155832N) crossings to flashing lights and gates, in lieu of upgrading the West Boundary Street crossing (155821J), will satisfy CSX’s obligations under the Railroad Corridor Agreement, dated May 17, 1999, and therefore under Environmental Condition No. 51 of Appendix Q of Decision No. 89.

³ In its September 18, 2001 filing, CSX enclosed a letter from James M. Bagdonas, City Administrator, City of Perrysburg, to Susan J. Kirkland (ORDC), dated August 8, 2001, and a letter from Ms. Kirkland to Dale Ophart (CSX), dated August 20, 2001, discussing this issue.

2. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary